



# Department of Justice

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## **JUSTICE DEPARTMENT WILL NOT CHALLENGE BEHAVIORAL HEALTH CARE PROVIDERS NETWORK IN NORTH DAKOTA , MINNESOTA**

WASHINGTON, D.C. -- The Department of Justice announced today that it would not challenge a proposal by a behavioral health care providers network--Midwest Behavioral Healthcare LLC--to offer multiple behavioral health care specialties in North Dakota and Northwestern Minnesota, since the proposed operations would not lessen competition substantially in those areas.

The Department's Antitrust Division said that based on information provided by Midwest Behavioral Healthcare LLC (MBH), and an independent investigation conducted by the Division, the proposed operations would not produce any significant adverse competitive effects on managed care or other third-party payers.

The Department's position was stated in a business review letter from Assistant Attorney General Joel I. Klein, in charge of the Antitrust Division, to counsel for MBH.

MBH's network would include providers of the following 10 types of behavioral health care services: general psychiatrists, child and adolescent psychiatrists, psychologists, nurses, social workers, counselors, foster parents, therapists, technicians, and case managers. The behavioral health case services would be offered in the following six geographic areas: Fargo, N.D.-Moorhead, Minn.; Grand Forks, N.D.-East Grand Forks, Minn.; Bismarck, N.D.; Minot, N.D.; Alexandria, Minn.; and Bemidji, Minn.

MBH proposes to include in its network providers of each type of behavioral health care service from only one pre-existing solo or group practice, in each geographic area. In the event more providers of a given type are needed, MBH would endeavor to train or recruit from outside that area sufficient additional providers. If additional providers of a given type are still needed, MBH will include additional pre-existing providers in that area, provided the total number of MBH's providers does not exceed 30 percent of the pre-existing providers of that type, in that geographic area.

Initially, MBH proposes to hire or employ a messenger to convey contracting information between individual MBH providers and third-party payers. Within approximately two years of starting operations, MBH proposes to shift from a messenger arrangement to a risk-sharing joint venture arrangement among its providers that will negotiate collectively on behalf of its providers, and will provide financial incentives to its providers to offer high-quality behavioral health care services at more cost-efficient prices. MBH's messenger arrangement and its joint venture arrangement will both be non-exclusive, thus permitting MBH's providers to join any other health care provider network at any time.

"The Department's review of MBH's proposed operations and its decision not to challenge MBH's proposal demonstrate once again that existing federal antitrust law is sufficiently flexible to address adequately and appropriately any potential or actual anticompetitive effects in health care markets including those produced from the operation of novel arrangements," said Joel I. Klein, Assistant Attorney General in charge of the Antitrust Division. "The Department's action today reaffirms both its ability and willingness to respond favorably to innovations in health care markets, provided adequate steps are taken to ensure their operations do not produce any substantial anticompetitive effects."

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, Suite 215 Liberty Place, 325 7th Street, N.W., Department of Justice, Washington, D.C. 20004. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to Paragraph 10(c) of the Business Review Procedure.

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